

HOUSE BILL 2317
By McMillan

AN ACT to amend Tennessee Code
Annotated, Title 45, Title 48, Title 55, Title
56, Title 57, and Title 67, relative to
taxation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-8-104(d), is amended by deleting the language in its entirety and by substituting instead the following language:

(d) All contributions or distributions made to or on behalf of beneficiaries under any college education savings plan authorized by title 49, chapter 7, part 8 or 9, by federal law, or by the laws of another state are exempt from all taxation under this chapter. This exemption shall include, but is not limited to, contributions to and distributions from plans defined in 26 U.S.C. § 529 of the Internal Revenue Code and accounts properly designated as education savings accounts, education IRAs, or future tuition payment plans, however described. The exemption provided by this subsection shall apply only if such contributions or distributions are used for qualified higher education expenses as defined in 26 U.S.C. § 529(e)(3) or if such contributions are refunded or otherwise distributed without penalty due to the death or disability of the designated beneficiary or if the beneficiary receives a scholarship and to the extent the amount of the refund does not exceed the amount of the scholarship.

SECTION 2. Tennessee Code Annotated, Section 67-4-2004, is amended by adding the following as a new, appropriately numbered subdivision:

() "Tennessee historic property preservation or rehabilitation entity" means an entity that satisfies all of the following requirements:

(A) The Tennessee historic property preservation or rehabilitation entity must be a corporation or limited liability company organized under the laws of Tennessee that is directly or indirectly controlled by a not-for-profit entity, as defined in this part. Such not-for-profit entity must directly or indirectly hold not less than fifty-one percent (51%) of the Tennessee historic property preservation or rehabilitation entity's ownership interest and voting control;

(B) The Tennessee historic property preservation or rehabilitation entity must be organized for the purpose of preserving or rehabilitating a historic property listed on the National Register of Historic Places;

(C) The not-for-profit entity must receive approval of its historic certification application--part 3 by the United States department of the interior national park service; and

(D) The historic property must be used in the performance of the exempt activity or function of the controlling not-for-profit entity.

SECTION 3. Tennessee Code Annotated, Section 67-4-2008(a)(13), is amended by deleting the language in its entirety and substituting instead the following language:

(13) Tennessee historic property preservation or rehabilitation entities.

SECTION 4. Tennessee Code Annotated, Section 67-6-322(i), is amended by deleting the language "an entity that satisfies all of the requirements of § 67-4-2008(a)(11)" and substituting instead the language "any Tennessee historic property preservation or rehabilitation entity as defined in § 67-4-2004".

SECTION 5. Tennessee Code Annotated, Section 67-6-330(a), is amended by deleting the language in subdivision (6) and substituting instead the following language:

(6) Gross proceeds derived from admissions to amusement or recreational activities conducted, produced, or provided by:

(A) Not-for-profit museums, not-for-profit entities which operate historical sites and not-for-profit historical societies, organizations or associations;

(B) Organizations which have received and currently hold a determination of exemption from the internal revenue service pursuant to 26 U.S.C. § 501(c);

(C) Organizations listed in Major Group No. 86 of the Standard Industrial Classification Manual of 1972, as amended, prepared by the office of management and budget of the federal government; or

(D) Tennessee historic property preservation and rehabilitation entities as defined in § 67-4-2004;

provided, that this exemption shall not apply unless such entities, societies, associations or organizations promote, produce and control the entire production or function;

SECTION 6. Tennessee Code Annotated, Section 67-6-330(a)(2), is amended by deleting the word “country” and substituting instead the word “county”.

SECTION 7. Tennessee Code Annotated, Section 67-6-206(b), is amended by adding the following as a new, appropriately designated subdivision:

() Notwithstanding subdivision (2), the term “manufacturer” does not include any person whose principal business is the preparation of food for immediate retail sale.

SECTION 8. Tennessee Code Annotated, Section 67-6-102(a)(16), is amended by adding the following as a new, appropriately designated subdivision:

() “Industrial machinery” does not include machinery, apparatus and equipment, with all associated parts, appurtenances, accessories, repair parts, and necessary repair or taxable installation labor therefor, that is used in the preparation of food for immediate retail sale.

SECTION 9. Tennessee Code Annotated, Section 67-1-1441, is amended by deleting the language therein in its entirety and substituting instead the following:

(a) Inspectors, agents, representatives or officers appointed by the commissioner shall be cloaked with and have the duty, power, and authority as sheriffs, police officers and other peace officers to enforce the provisions of this part.

(b) Any duly authorized officer or employee of the department who has been specifically designated by the commissioner to enforce the provisions of this part is authorized and empowered to go armed or carry a pistol while on active duty engaged in enforcing the provisions of this part. Any such person is also authorized and empowered to execute search warrants and do all acts incident thereto in the same manner as search warrants may be executed by sheriffs, police officers and other peace officers.

SECTION 10. Tennessee Code Annotated, Section 67-1-1418, is amended by deleting the following language from subsection (b):

(1) That the sale shall not be conducted in any manner other than:

(A) By public auction; or

(B) By public sale under sealed bids;

and by substituting instead the following language:

(1) That the sale shall not be conducted in any manner other than:

(A) By public auction;

(B) By public internet auction; or

(C) By public sale under sealed bids;

SECTION 11. Tennessee Code Annotated, Section 57-6-104(b), is amended to include “, material” between the words “container” and “and” in the first sentence thereof.

SECTION 12. Tennessee Code Annotated, Section 57-6-104(b), is amended to include “, material” between the words “container” and “and” in the second sentence thereof.

SECTION 13. Tennessee Code Annotated, Section 57-6-104(b), is amended to include “, material” between the words “container” and “and” in the third sentence thereof.

SECTION 14. Tennessee Code Annotated, Section 57-6-104(c)(1), is amended to include “, material” between the words “container” and “and” in the first sentence thereof.

SECTION 15. Tennessee Code Annotated, Section 57-6-104(c)(1), is amended by deleting the second sentence in its entirety and by substituting instead the following sentence:

As used in this section, ‘category’ refers to cans, returnable bottles, nonreturnable bottles, kegs and barrels; ‘container’ refers to size in ounces; ‘material’ refers to the principal material used to manufacture each category type, including without limitation metal, glass and/or plastic.

SECTION 16. Section 1 of this act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to all such plans, funds, contracts or accounts in existence on the effective date of this act or that are established after such effective date. Sections 2, 3, and 4 of this act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to transactions occurring on or after June 3, 2004 and to tax periods ending on or after June 3, 2004, the public welfare requiring it. Section 7 of this act shall take effect on July 2, 2005, the public welfare requiring it. All remaining sections of this act shall take effect upon becoming a law, the public welfare requiring it.